

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BYTEMARK, INC.,

Plaintiff,

V.

XEROX CORP., ACS TRANSPORT SOLUTIONS, INC., XEROX TRANSPORT SOLUTIONS, INC., CONDUENT INC., and NEW JERSEY TRANSIT CORP.,

Defendants.

[illegible]

CASE NO. 1:17-CV-01803 (PGG) (JW)

**DEFENDANT NEW JERSEY TRANSIT CORP.'S
NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT REGARDING
ELEVENTH AMENDMENT IMMUNITY**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant New Jersey Transit Corp. (“NJ Transit”), through its undersigned counsel, respectfully moves the Court before the Honorable Paul G. Gardephe for an order granting summary judgment that Plaintiff Bytemark, Inc’s (“Bytemark”) claims against NJ Transit are barred by the Eleventh Amendment of the United States Constitution.

This Motion is based on this Notice of Motion and Motion, the Memorandum of Law in Support, the Local Rule 56.1 Statement of Material Facts, the Declaration of Jonathan Powers and exhibits attached thereto, all submitted concurrently herewith, as well as all cited pleadings in this action, any matter of which the Court may take judicial notice, and any argument as the Court may considering hearing on this Motion.

Dated: October 14, 2022

Respectfully submitted,

/s/ Ashley N. Moore

Ashley N. Moore (admitted *pro hac vice*)

amoore@mckoolsmith.com

David Sochia (admitted *pro hac vice*)

dsochia@mckoolsmith.com

Douglas A. Cawley (admitted *pro hac vice*)

dcawley@mckoolsmith.com

Jonathan Powers (admitted *pro hac vice*)

jpowers@mckoolsmith.com

McKool Smith, P.C.

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Facsimile: (214) 978-4044

Eliza Beeney
ebeeney@mckoolsmith.com
McKool Smith, P.C.
One Bryant Park, 47th Floor
New York, New York 10036
Telephone: (212) 402-9424
Facsimile: (212) 402-9444

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned certifies that on October 14, 2022, the foregoing document was served on counsel of record at the following email addresses:

dkeyhani@keyhanillc.com
fstephenson@keyhanillc.com

By: /s/ Ashley N. Moore
Ashley Moore